Please insert the following new claim:

40. A process for producing a polypeptide comprising:

culturing a recombinant cell containing the polynucleotide of claim 37 under conditions suitable to produce the polypeptide encoded by said polynucleotide; wherein said polypeptide has the ability to stimulate the proliferation of human endothelial cells.

Remarks

Claims 21-40 are pending. The claims of the above amendment are believed to be fully supported by the present claims, specification or drawings. Therefore, no new matter is believed to be presented.

Applicant believes that the present application and claims fully comply with the sequence listing rules, but has provided an updated sequence listing in both hard copy and CRF formats. The specification has been amended to insert the updated Sequence Listing and the description of the Figures has been amended to cross-reference the sequences of the Sequence Listing.

The Abstract and Title have been amended as suggested by the Examiner.

Claims 31-33 have been amended to substitute the Examiner's preferred language regarding "culturing" of the cell rather than "expressing" from the cell. Such substitute language is merely one of preference and does not change the scope of the claims.

Claim 24 has been amended to clarify that it is not a duplicate of claim 26. Accordingly this objection is overcome and should be withdrawn.

Further, regarding the ATCC Deposits, Applicant's representative includes a copy of the ATCC Deposit contract for ATCC Deposit No. 97166 certifies by the signature below the following:

The culture of ATCC Deposit No. 97166 will be maintained for 30 years after the date of deposit and will be replaced with living cultures if such should become destroyed or defective. Further, if a patent should issue which is directed to the present invention, upon the issuance of such a patent the relevant deposited strain of ATCC No. 97166 will be irrevocably and without restriction released to the public, excepting for those restrictions permitted by enforcement of the patent.

Accordingly, any issue relating to deposit requirements is believed to be overcome. In particular the rejection of claims 37-39 is believed to be overcome, in view of the Examiner's suggestion that the above statement and amendment regarding the ATCC deposit would remove such a rejection. Applicant appreciates the Examiner's suggestion.

Claims 34-36 were amended to clarify that the polynculeotides from SEQ ID NO:1 do not occur in random order, but occur in the same order as in SEQ ID NO:1. Therefore, the rejection of claim 36 to this regard is deemed overcome and should be withdrawn.

Claims 31-33 were rejection as being drawn to a method for producing polypeptides utilizing host cell comprising the polynucleotides of claims 22, 24 and 26, respectively, and possibly including inactive polypeptide species. As amended, claims 31-33 and new claim 40 all require that the polypeptide produced have the ability to stimulate the proliferation of human endothelial cells. Such an ability is readily determined for a particular polypeptide utilizing the assay set forth on page 21, for example.

Therefore, the above amendments are believed to overcome all of the rejections of record. However, specific issues are addressed in more detail below.

The remarks in the reasons for allowance on pages 9-13 address issues due to language regarding polypeptide variants obtained from polynucleotides which have 95% identity to a polynucleotide sequence encoding the polypeptide of SEQ ID NO:2. The above amendment to the claims requires that the polypeptide have the ability to stimulate the proliferation of human endothelial cells. Accordingly, only the production of active polypeptides is claimed.

The specification at pages 9-18 provides guidance as to how such polypeptide variants may be made. In particular, starting material polynucleotides for transforming a host or otherwise expressing the claimed polypeptides are the polynucleotides sequences that are admitted as being allowable by the present Examiner (see allowance of claims 22, 24 and 26) in the January 31, 1997 Office Action. Further, standard assays exist in the art for determining such activity. An example of such an assay is discussed above and is set forth in the present specification.

Accordingly, the rejection under 35 U.S.C. §112, first paragraph, of the present claims should be withdrawn since the present claims which recite the production of polypeptides obtained from polynucleotides having 95% identity to a polynucleotide encoding a polypeptide according to SEQ ID NO:2 are clearly supported by the specification.

The Examiner is invited to call the undersigned at the below number if any further action by applicant would expedite the examination of this application.

FIRST CLASS MAIL CERTIFICATE

Deposit date: June 30, 1997

I hereby certify that this paper and the attachments hereto are being deposited with the U.S. Postal Service "First Class Mail" service under 37 CFR 1.10 on the date indicated above addressed to:

Box Amendment - Fee Due
Assistant Commissioner for Patents
Washington, DC 20231

6/30/97

J.G. Mullins, Esq. **Date**

Respectfully submitted,

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